

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Scott D. Lautenbach

Serial No.: 10/606,407

Filed: June 25, 2003

For: MINIMALLY COMPLIANT,
VOLUME EFFICIENT PISTON FOR
OSMOSTIC DRUG DELIVERY SYSTEMS

Confirmation No.: 5657

Examiner: S. Kennedy

Group Art Unit: 3762

Attorney Docket No.: 3139-6623.1US
(AZ0014/ARC3060NP)

Notice of Allowance Mailed:

February 25, 2005

Express Mail Mailing Label No.: EL 994847684 US

Date of Deposit with USPS: May 25, 2005

Person making Deposit: Steve Wong

TRANSMITTAL LETTER

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

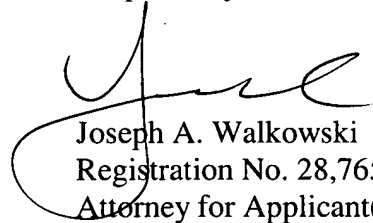
Applicant submits herewith Part B - Fee(s) Transmittal for the above-captioned application and a check in the amount of \$1,730.00 in payment therefor plus ten (10) copies of the patent when issued.

Serial No.: 10/606,407

Also, enclosed is an Amendment Pursuant to 37 C.F.R. § 1.312(a) (27 pages); Comments on Statement of Reasons for Allowance (2 pages); and Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages).

Applicant understands that no additional fees are required. However, if the Office determines that any comparison fees or other additional fees are required, the Commissioner is authorized to charge any such fees to TraskBritt Deposit Account No. 20-1469. A copy of this Transmittal Letter is enclosed for deposit account charging purposes.

Respectfully submitted,



Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)

TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: May 25, 2005
JAW/ps:dd

Enclosures: Part B - Issue Fee Transmittal
Check No. 21742 in the amount of \$1,730.00
Copy of Transmittal Letter
Amendment Pursuant to 37 C.F.R. § 1.312(a) (27 pages)
Comments on Statement of Reasons for Allowance (2 pages)
Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages)

Document in ProLaw



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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop ISSUE FEE
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P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Examiner indicates:

The ratio of the piston length to the total diameter is not shown or suggested in the prior art, in combination with the other disclosed elements. The piston of applicant's figure 2 is more accurately drawn to scale, while that of figure 1 is not.

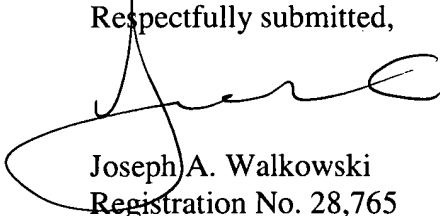
The majority of the prior art shows a piston appearing similar to applicant's figure 1. The closest prior art pistons were found in the patent to Linkwitz et al.,

US 5,318,558, the patent application to Peterson et al., 2003/0114837 A1 (figure 9, piston 146), and the patent to Chen et al., US 6,287,295 (figure 20, piston 974).

Even if MPEP 2125 was ignored, which advises that "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale", the prior art still does not teach the claimed dimensions. None of the prior art specifies the size of the pistons, so the examiner has measured them as they appear with a ruler. Chen shows a piston length to total diameter ration of, at best, 0.93:1. Peterson shows the ratio to be 0.74:1. Linkwitz shows a ratio of 0.8:1. The only prior art that shows a similar ratio is Peery, US 5,985,305, figure 3. The length to total diameter is 1.16:1. However, figure 3 is not a piston, the piston is shown as reference numeral 16, figure 1, which is undescribed. In view that the vast majority of the pistons in this art have a piston diameter which greatly exceeds the length, the examiner cannot find any motivation to modify these pistons to arrive at applicant's invention. Further, the general finding that changes in size, shape, are *prima facie* obvious is adequately rebutted by applicant's specification. See the published application, paragraphs [0057-0058]. Accordingly, the claims are allowed.

Applicants concur with the reasons as stated by the Examiner insofar as they comprise a summary, and are exemplary and not limiting. However, the independent claims as allowed include other and different language than that specified by the Examiner, and the allowed dependent claims include other and further features and elements. Accordingly, the scope of the claims must be determined from the literal language of each as a whole, as well as equivalents thereof.

Respectfully submitted,



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